

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**Zinganything, LLC,**  
1760 Wadsworth Road  
Akron, Ohio 44320,

Plaintiff,

v.

**Leed's,**  
400 Hunt Valley Road  
New Kensington, PA 15068,

Defendant.

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

Magistrate \_\_\_\_\_

**COMPLAINT FOR  
PATENT INFRINGEMENT**

*(Jury Demand Endorsed Hereon)*

NOW COMES the Plaintiff, *Zinganything, LLC*, and for its Complaint against the Defendant  
hereby alleges as follows:

**THE PARTIES**

1. The Plaintiff, Zinganything, LLC, is a limited liability company organized under the laws of Ohio, and has its principal place of business in Akron, Ohio, County of Summit.
2. The Defendant, Leed's, is a corporation with principal offices located in New Kensington, Pennsylvania, which makes, uses, sells, offers for sale, and/or imports infringing products in the United States in this judicial district and elsewhere.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement. The patent claims arise under the patent laws of the United States, specifically 35 U.S.C. § 281 *et al.*

- 1 4. This Court has federal question subject matter jurisdiction in this matter, at least, pursuant to  
2 28 U.S.C. §§ 1331, 1338, and 35 U.S.C. § 281 *et al.* because this action arises under federal  
3 law of the United States.
- 4 5. In addition to or in the alternative to this Court's federal question jurisdiction, this Court also  
5 has subject matter jurisdiction pursuant to diversity of citizenship principles as the parties are  
6 from different states and the amount in controversy exceeds \$75,000.
- 7 6. This Court has personal jurisdiction over the Defendant by virtue of their sale of products,  
8 transaction of business, and solicitation of business within the State of Ohio, within this  
9 judicial district and elsewhere.
- 10 7. Ohio's Long-Arm Statute, RC § 2307.382(A)(1), provides that "A court may exercise  
11 personal jurisdiction over a person who acts directly or by an agent, as to a cause of action  
12 arising from the person's: (1) Transacting any business in this state." In this case, the  
13 Defendant transacts business in this state. The Defendant sells infringing product in this  
14 district and elsewhere.
- 15 8. Ohio's Long-Arm Statute, RC § 2307.382(A)(2), provides that "A court may exercise  
16 personal jurisdiction over a person who acts directly or by an agent, as to a cause of action  
17 arising from the person's: (2) Contracting to supply services or goods in this state." In this  
18 case, the Defendant contracts to supply goods in this state. The Defendant sells infringing  
19 product in this district and elsewhere.
- 20 9. Notably, the Defendant's website, leedsworld.com, which re-directs to pcna.com, is an active  
21 rather than a passive website, meaning, it permits Ohio users to place orders, to store  
22 personal account information, to register a username and password, to access customer  
23  
24  
25  
26

1 service, and to ship products to different states, including Ohio. Websites with similar  
2 features have been found to satisfy the ‘purposeful availment’ requirement of the “minimum  
3 contacts” analysis satisfying due process. *See, e.g., Solar X Eyewear, LLC v. Bowyer*, 2011  
4 WL 3418306 (N.D. Ohio Aug. 4, 2011); *Wood v. 1-800-Got-Junk?, LLC*, 2007 WL 895008  
5 (S.D. Ohio March 22, 2007); *V Secret Catalogue v. Zdrok*, 2003 WL 22136303 (S.D. Ohio  
6 Aug. 29, 2003); *Bath and Body Works, Inc. v. Wal-Mart Stores, Inc.*, 2000 WL 1810478  
7 (S.D. Ohio Sept. 12, 2000).

8  
9 10. Venue is proper in the Northern District of Ohio pursuant to 28 U.S.C. § 1391(b)(2) and/or  
10 28 U.S.C. § 1400(b) *et al.* because a substantial part of the events giving rise to the claims  
11 occurred in this judicial district, the Defendant is subject to personal jurisdiction in this  
12 district, and infringement occurred within this judicial district. Further, the Plaintiff, and its  
13 witnesses and evidence, are located in this district. Venue is proper here.

### 14 **FACTUAL ALLEGATIONS**

15  
16 11. Since its founding, the Plaintiff has introduced a revolutionary product line and technology  
17 designed with the purpose of extracting the essence of all natural ingredients and allowing  
18 these flavors to infuse directly into a liquid of choice.

19 12. The Plaintiff’s products include the Citrus Zinger®, Aqua Zinger®, Salad Zinger®, Vodka  
20 Zinger®, and Kid Zinger®, among others.

21 13. The Plaintiff’s products are sold worldwide via its website, through distributors, at various  
22 retailers, and through large big box retailers.

23 14. The Plaintiff’s products naturally infuse the flavor, aroma, hue, plus the added vitamin,  
24 minerals, and nutrients, naturally, when using fresh ingredients like fruits/vegetables.  
25  
26

1 15. The Plaintiff's Zinger® products were developed to make a positive contribution toward  
2 improving daily diets – both in the food we eat and the beverages we drink. The Plaintiff  
3 strongly believes in the infusion of farm fresh ingredients and strives to create innovative  
4 tools to harness this power. The Plaintiff hopes its products can become a driving force in  
5 helping the average consumer to divert from unhealthy beverage choices.  
6

7 16. With the Zinger® bottles, users can avoid refined sugars, artificial flavorings, preservatives,  
8 and colorings while opting for nutritional hydration utilizing all-natural ingredients.

9 17. The Plaintiff's Zinger® products are safe, durable, and eco-friendly, made from Eastman  
10 Tritan BPA/EA-free plastics and food-grade safe materials.

11 18. The Plaintiff's Zinger® products have enjoyed considerable success and have been featured  
12 on television talk shows, countless industry tradeshow, and various other media outlets.  
13

14 19. Mr. Joshua A. Lefkovitz is the founder and CEO of the Plaintiff corporation.

15 20. On December 24, 2013, United States Utility Patent No. 8,613,402, entitled "Essence  
16 Extractor" (hereinafter referred to as the '402 patent) duly and legally issued to Joshua A.  
17 Lefkovitz, as inventor, for the aforementioned invention. (A true and accurate copy of the  
18 '402 patent as issued is attached hereto and incorporated herein as "Exhibit 1.")

19 21. All rights to the '402 patent, including but not limited to, the right to recover for infringement  
20 thereunder, have been assigned to the Plaintiff, Zinganything, LLC.  
21

22 22. The '402 patent teaches a portable liquid containing essence extractor integrating continuous  
23 fluid communication such that there is continuous blending of freshly extracted oils within  
24 the container with a separation mechanism between the essence extractor and liquid container  
25  
26

1 that obstructs communication of solids from the extractor while still permitting fluid  
2 communication. The Plaintiff's products read on the '402 patent.

3 23. The Defendant offers for sale and sells a product called the "Fruit Infuser BPA Free Water  
4 Bottle." (See a copy of the offer for sale attached as "Exhibit 2," and incorporated herein,  
5 which is a screenshot from Defendant's website.)  
6

7 24. The Defendant has sold their infringing product in this judicial district in Ohio and  
8 elsewhere.

9 25. The Defendant's product (Ex. 2) infringes at least Claim Nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12,  
10 13, 17, 18, and 19 of the Plaintiff's 402 patent. (See a preliminary claims chart attached  
11 hereto and incorporated herein as "Exhibit 3." The attached claims chart is preliminary and  
12 Plaintiff reserves the right to modify its infringement contentions pursuant to the Local  
13 Patent Rules.)  
14

15 26. The aforementioned activities of the Defendant have injured and threaten future and  
16 immediate injury to the Plaintiff. More specifically, the Defendant's activities have  
17 diminished the Plaintiff's goodwill and caused the Plaintiff to lose sales that it otherwise  
18 would have made but for the sales of the Defendant.

19 27. The Defendant is not authorized or licensed in any way to sell their infringing products or to  
20 use the intellectual property owned by the Plaintiff.  
21

22 28. The Plaintiff is entitled to an award of damages against Defendant, and is entitled to  
23 injunctive relief.  
24  
25  
26

**CLAIM NO. 1**

*(Patent Infringement – 35 U.S.C. § 271 et seq.)*

29. The Plaintiff hereby incorporates by reference each statement, whether written above or below, as if each is fully re-written herein.

30. The Defendant has been and is currently making, using, offering for sale, selling, and/or importing products that infringe the ‘402 utility patent. (Ex 3.)

31. The Defendant’s conduct is an infringement of the ‘402 patent, and in violation of 35 U.S.C. § 271 within this judicial district and elsewhere.

32. The Defendant will continue to make, use, offer for sale, sell, and import their infringing products unless enjoined by this Court.

33. Upon information and belief, the Defendant has been, and is, actively inducing infringement of the ‘402 patent, by offering for sale and selling their infringing products to dealers at wholesale prices who have, and will continue to, offer them for sale and sell them to end users.

34. The Defendant’s infringement is, and at all times has been, deliberate, willful, with full knowledge of the Plaintiff’s rights, and wanton, and as a result, the Plaintiff is entitled to treble damages pursuant to 35 U.S.C. § 284.

35. This is an exceptional case within the meaning of 35 U.S.C. § 285, and the award of appropriate attorney’s fees is justified.

**PRAYER FOR RELIEF / REQUEST FOR REMEDIES**

WHEREFORE, the Plaintiff prays that this Court enter an Order against the Defendant as follows:

- 1 A) A preliminary injunction and permanent injunction enjoining the Defendant from making,  
2 using, offering for sale, selling, and/or importing any product that infringes upon the '402  
3 patent;  
4  
5 B) An award of damages adequate to compensate for the patent infringement including lost  
6 profits but in no event less than a reasonable royalty, together with interest and costs pursuant  
7 to 35 U.S.C. § 284 *et al.*;  
8  
9 C) A trebling of patent infringement damages pursuant to 35 U.S.C. § 284 *et al.*;  
10  
11 D) Attorney's fees in a patent case pursuant to 35 U.S.C. § 285 *et al.*;  
12  
13 E) An accounting for damages resulting from Defendant's intellectual property infringement;  
14  
15 F) An assessment of interest on the damages so computed;  
16  
17 G) Judgment against Defendant indemnifying the Plaintiff from any claims brought against the  
18 Plaintiff for negligence, debts, product liability, or other breaches of any duty owed by the  
19 Defendant to any person who was confused as to some association between the Plaintiff and  
20 Defendant as alleged in this Complaint;  
21  
22 H) Requiring Defendant to account to the Plaintiff for all sales and purchases that have occurred  
23 to date, and requiring the Defendant to disgorge any and all profits derived by Defendant for  
24 selling infringing product;  
25  
26 I) Requiring Defendant to provide full disclosure of any and all information relating to its  
supplier or suppliers of infringing product;  
J) Requiring Defendant to provide the location of any and all manufacturing equipment,  
including but not limited to, molds used to manufacture infringing product;

- 1 K) Requiring Defendant to destroy any and all manufacturing equipment used to manufacture  
2 infringing product or to deliver said equipment to the Plaintiff;
- 3 L) Ordering a product recall of infringing product for destruction;
- 4 M) Requiring Defendant to file with this Court and serve on the Plaintiff within thirty (30) days  
5 of this Court's Order a report setting forth the manner in which they complied with the  
6 Order;
- 7
- 8 N) Requiring Defendant to provide to Plaintiff all sales records, including but not limited to,  
9 email, mail, and advertising lists;
- 10 O) Damages according to each cause of action herein;
- 11 P) Prejudgment interest; and
- 12 Q) Any such other relief in law or equity that this honorable Court deems just.
- 13

14 **JURY DEMAND**

15 WHEREFORE, the Plaintiff requests a trial by jury on all issues so triable by the maximum  
16 number permitted by law.

17

18

19

20

21

22

23

24

25

26



Most Respectfully Submitted,

/s/ David A. Welling

**DAVID A. WELLING (0075934)** (lead counsel)

**C. VINCENT CHOKEN (0070530)**

*CHOKEN WELLING LLP*

55 S. Miller Rd., Ste. 203

Akron, Ohio 44333

Tel. (330) 865 – 4949

Fax (330) 865 – 3777

davidw@choken-welling.com

vincec@choken-welling.com

**JOHN D. GUGLIOTTA (0062809)**

*McCarthy, Lebit, Crystal & Liffman Co., L.P.A.*

101 West Prospect Ave., Ste. 1800

Cleveland, Ohio 44115

Tel. (216) 696 – 1422

Fax (216) 696 – 1210

johng@inventorshelp.com

*Counsel for the Plaintiff*